

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

DONALD ROBOHM and  
NATALIE ROBOHM,

PLAINTIFFS

VERSUS

CIVIL ACTION NO.: 1:08CV490-LTS-RHW

STATE FARM FIRE & CASUALTY COMPANY; STATE  
FARM MUTUAL AUTOMOBILE INSURANCE COMPANY  
and STATE FARM JOHN DOES, One through Fifteen

DEFENDANTS

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PLAINTIFFS' RESPONSE IN OPPOSITION TO STATE FARM FIRE & CASUALTY COMPANY'S  
MOTION TO STRIKE DESIGNATION OF EXPERT WITNESSES

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COME NOW the Plaintiffs, by and through their counsel of record, and file this, their Response in Opposition to Defendant, State Farm's, Motion to Strike Plaintiffs' Designation of Expert Witnesses, and would respond as follows, to-wit:

1. The Plaintiffs disclosed the reports of the two expert witnesses designated, Ted Biddy (engineer) and Stephen Wistar (meteorologist) during the course of submitting a claim to State Farm Fire & Casualty Company in their attempts to recover their additional living expenses provided in the policy of insurance.

2. Plaintiffs again disclosed the two expert witnesses on July 14, 2009, as was indicated in Plaintiffs' Designation of Expert Witnesses. Plaintiffs attached a copy of the disclosure made in their discovery responses to their Designation of Expert Witnesses. The discovery responses included the expected testimony and curriculum vitae of each of the two expert witnesses.

3. That Defendant State Farm Fire & Casualty Company scheduled the

deposition of the two expert witnesses based upon the disclosure of the experts in the discovery responses. Therefore, no prejudice was caused the Defendant.

4. The failure to file the designation was inadvertent and was complicated by the Defendant's repeated requests for extensions in this matter to which Plaintiffs always agreed. Plaintiffs' counsel is also handling another legal matter for Plaintiffs concerning property damage arising out of Hurricane Katrina which is tracking this case.

5. Furthermore, all the Rule 26 information was provided to Defendant with Plaintiffs' Pre-Discovery Disclosures, and Defendant is very familiar with Plaintiffs' experts, Ted Biddy and Stephen Wistar and have deposed them many times in other matters.

6. Finally, as we are at the twilight of the discovery process, Defendant has failed to supplement its disclosures due to a pending Motion for Protective Order. Hence, it appears unlikely that even the discovery information that Plaintiffs are entitled to will be provided prior to the discovery deadline which makes it impossible for Plaintiffs to designate a bad faith expert in this case.

WHEREFORE, premises considered, the Plaintiffs pray that this Court will deny Defendant, State Farm Fire & Casualty Company's, Motion to Strike Plaintiffs' Designation of Expert Witnesses and for such other relief as is deemed appropriate.

RESPECTFULLY SUBMITTED this, the 23rd day of December, 2009.

Respectfully submitted,

LUCKEY & MULLINS, PLLC  
Attorneys for Plaintiffs

By: /s/Stephen W. Mullins  
STEPHEN W. MULLINS (MSB #9772)

CERTIFICATE OF SERVICE

I, Stephen W. Mullins, counsel for Plaintiffs, do hereby certify that I have this day electronically filed the foregoing with the Clerk of this Court using the ECF system which sent notification of such filing to all Counsel of Record in this Court.

This, the 23rd day of December, 2009.

/s/Stephen W. Mullins  
STEPHEN W. MULLINS